

EXHIBIT D



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Transcript of Edward Joseph Brooks, III, Esquire

Date: July 6, 2022

Case: XR Communications, LLC -v- D-Link Systems, Inc., et al.

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Edward Joseph Brooks, III, Esquire
Conducted on July 6, 2022

1 (1 to 4)

1	UNITED STATES DISTRICT COURT	1	A P P E A R A N C E S
2	CENTRAL DISTRICT OF CALIFORNIA	2	ON BEHALF OF PLAINTIFF:
3	- - - - - X	3	REZA MIRZAEI, ESQUIRE
4	XR COMMUNICATIONS, LLC, :	4	RUSS AUGUST & KABAT
5	d/b/a VIVATO TECHNOLOGIES, :	5	12424 Wilshire Boulevard
6	Plaintiff, : Case No.	6	12th Floor
7	v. : 8:17-CV-00596-DOC-JDE	7	Los Angeles, California 90025
8	D-LINK SYSTEMS, INC., et al., :	8	(310) 826-7474
9	Defendants. :	9	
10	- - - - - X	10	ON BEHALF OF DEFENDANT ARUBA NETWORKS, LLC:
11		11	ROBERT T. HASLAM, ESQUIRE
12	Videotaped Deposition of	12	COVINGTON & BURLING LLP
13	EDWARD JOSEPH BROOKS, III, ESQUIRE	13	3000 El Camino Real
14	Conducted Virtually	14	5 Palo Alto Square
15	Wednesday, July 6, 2022	15	10th Floor
16	11:08 a.m. EDT	16	Palo Alto, California 94306-2112
17		17	(650) 632-4700
18		18	- and -
19		19	KEE YOUNG LEE, ESQUIRE
20		20	COVINGTON & BURLING LLP
21		21	One CityCenter
22		22	850 10th Street, NW
23	Job No.: 455083	23	Washington, DC 20001-4956
24	Pages 1 - 57	24	(202) 662-6291
25	Reported by: Debra A. Whitehead	25	
1	Videotaped Deposition of EDWARD JOSEPH BROOKS,	1	A P P E A R A N C E S C O N T I N U E D
2	III, ESQUIRE, conducted virtually.	2	ON BEHALF OF DEFENDANTS BELKIN INTERNATIONAL,
3		3	INC., and NETGEAR, INC.:
4		4	SAJID SALEEM, ESQUIRE
5	Pursuant to notice, before Debra Ann Whitehead,	5	DUANE MORRIS LLP
6	E-Notary Public in and for the State of Maryland.	6	1075 Peachtree Street NE
7		7	Suite 1700
8		8	Atlanta, Georgia 30309-3929
9		9	(404) 253-6900
10		10	
11		11	ON BEHALF OF THE WITNESS:
12		12	KEVIN D. CONNEELY, ESQUIRE
13		13	STINSON LLP
14		14	50 South Street
15		15	Suite 2600
16		16	Minneapolis, Minnesota 55402
17		17	(612) 335-1829
18		18	
19		19	
20		20	ALSO PRESENT:
21		21	MALCOLM COOKE, A/V Technician
22		22	JOEL CORIAT, Video Specialist
23		23	
24		24	
25		25	

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5		7	
1	C O N T E N T S	1	P R O C E E D I N G S
2	EXAMINATION OF EDWARD JOSEPH BROOKS, III, ESQ. PAGE	2	VIDEO SPECIALIST: Good morning.
3	By Mr. Haslam 8	3	Here begins Media Number 1 in the video
4	By Mr. Mirzaie 46	4	recorded deposition of Edward Brooks in the matter
5	By Mr. Haslam 54	5	of XR Communications, LLC, versus D-Link Systems,
6		6	Inc., et al. This is Case Number
7		7	8:17-CV-00596-AG, filed in the U.S. District Court
8	E X H I B I T S	8	for the Central District of California, Los
9	(Attached to the Transcript)	9	Angeles Division.
10	BROOKS DEPOSITION EXHIBIT PAGE	10	Today's date is July 6, 2022. The time
11	Exhibit 1 First Amendment to Asset 10	11	on the video monitor is now 11:08 a.m. eastern
12	Purchase Agreement,	12	time. The videographer today is Joel Coriat, on
13	Bates XR-00007768 - 00007807	13	behalf of Planet Depos. This deposition will be
14	Exhibit 2 Patent Conveyance from Wayout 12	14	taken via videoconference.
15	Wireless, LLC, to Vivato Networks,	15	Would counsel please identify yourself,
16	LLC, Bates XR-00007808 - 00007811	16	for the record.
17	Exhibit 3 Patent Assignment, 15	17	MR. HASLAM: My name is Bob Haslam. I'm
18	Bates XR-00007829 - 00007833	18	with Covington & Burling, and I represent Aruba
19	Exhibit 4 10/16/06 Letter from Mr. Brooks 17	19	Networks. And with me is Kee Young Lee.
20	to Commissioner for Patents,	20	MR. MIRZAIE: I am Reza Mirzaie from
21	Bates ARUBA_0032504 - 0032506	21	Russ, August & Kabat, representing Plaintiff XR,
22	Exhibit 5 Tabs3 Client Ledger Report, 19	22	or also known as Vivato.
23	Brooks, Cameron & Huebsch, PLLC,	23	MR. SALEEM: Sajid Saleem from Duane
24	From 1/1/06 Through 12/31/08	24	Morris, representing Defendants Belkin and
25		25	NetGear.
6		8	
1	E X H I B I T S C O N T I N U E D	1	VIDEO SPECIALIST: All right. The court
2	BROOKS DEPOSITION EXHIBIT PAGE	2	reporter today is Debbie Whitehead, on behalf of
3	Exhibit 6 2/14/08 Amendment and Response, 27	3	Planet Depos. She will now swear in the deponent.
4	Bates ARUBA_0032636 - 0032660	4	EDWARD JOSEPH BROOKS, III, ESQUIRE,
5	Exhibit 7 4/25/08 Request for Withdrawal as 28	5	having been duly sworn, testified as follows:
6	Attorney or Agent and Change of	6	VIDEO SPECIALIST: Thank you.
7	Correspondence Address, Bates	7	You may proceed, Counsel.
8	ARUBA_0032681 - 0032682	8	EXAMINATION BY COUNSEL FOR DEFENDANT
9	Exhibit 8 Notice Regarding Change of Power 31	9	ARUBA NETWORKS, LLC
10	of Attorney, Bates	10	BY MR. HASLAM:
11	ARUBA_0032683 - 0032687	11	Q Mr. Brooks, I understand you're a lawyer.
12	Exhibit 9 4/25/08 Request for Withdrawal as 38	12	Are you still practicing today?
13	Attorney or Agent and Change of	13	A Yes.
14	Correspondence Address, Bates	14	Q Can you, for the record, now that you're
15	ARUBA_0034862 - 0034863	15	under oath, can you state your name and where you
16	Exhibit 10 Notice Regarding Change of Power 39	16	reside?
17	of Attorney, Bates	17	A Edward Joseph Brooks, III, resident in
18	ARUBA_0034864 - 0034866	18	Minneapolis, Minnesota.
19	Exhibit 11 10/31/08 Office Communication, 40	19	Q And among the areas of your practice, do
20	Bates ARUBA_0034875 - 0034877	20	you practice patent law?
21	Exhibit 12 4/30/08 Request for Withdrawal as 42	21	A Yes.
22	Attorney or Agent and Change of	22	Q Are you registered to practice before the
23	Correspondence Address, Bates	23	Patent and Trademark Office?
24	ARUBA_0033263 - 0033264	24	A Yes.
25		25	Q How long have you been so registered?

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7 (25 to 28)

25	27
1 Q If we scroll up to this document	1 MR. HASLAM: Can I have marked as the
2 slightly. The last entry, for example, on the Due	2 next exhibit Tab 9.
3 Diligence entry, 760.0277631, has a date of	3 (Brooks Deposition Exhibit 6 marked for
4 12/22/2008.	4 identification and is attached to the transcript.)
5 As of the end of 2008, for all of the	5 MR. HASLAM: I believe that's on the
6 matters that you had worked on for Vivato, were	6 screen. I would like to mark that as Exhibit 6.
7 you still owed money?	7 And can you give control to the witness.
8 A Yes.	8 A/V TECHNICIAN: Yes. He should have
9 Q During -- strike that.	9 control.
10 During the time that you were working for	10 Q Can you take whatever time you need to
11 Vivato entities, and in particular working with	11 review this document, and can you tell me what it
12 Mr. Haycox, were you paid regularly?	12 is.
13 A No.	13 A This appears to be an amendment and
14 Q If you recall, approximately when during	14 response filed with the U.S. patent office to an
15 your working relationship with Mr. Haycox were	15 office action dated December 21st, 2007.
16 you -- did you begin not to be paid regularly on	16 Q And if we go back to the top of this
17 the invoices that you submitted for payment?	17 document. I'm sorry, and we can scroll down just
18 A I believe a year into working with	18 a little bit.
19 Mr. Haycox.	19 Again, we see on the right-hand side,
20 Q Would that be somewhere around the last	20 just under the sentence that says, You should
21 quarter, approximately, of 2007?	21 receive 25 pages, including cover sheet, your
22 A I believe so.	22 docket number again.
23 Q And was -- was payment a topic that you	23 Is that correct?
24 discussed with Mr. Haycox when the bills were not	24 A Yes.
25 being paid timely?	25 Q And this -- can you just scroll down.
26	28
1 MR. CONNEELY: You can answer that yes or	1 And is that your signature?
2 no.	2 A Yes.
3 A Yes.	3 Q And this was filed in February of 2008.
4 Q Did you request payment?	4 If you recall, do you recall at this time
5 A Yes.	5 whether your accounts had been brought current
6 Q Were those requests honored in the sense	6 with Mr. Haycox's companies?
7 that Mr. Haycox brought current amounts that he	7 A The accounts were never brought current.
8 owed in the last quarter of 2007?	8 MR. HASLAM: Can we pull up Tab 10. And
9 A I do not recall. You're asking about the	9 can we mark this as Exhibit 7. And can you give
10 last quarter of 2007; I do not recall.	10 control to the witness.
11 Q If I asked you the same question for the	11 (Brooks Deposition Exhibit 7 marked for
12 last quarter of 2007 into the beginning, the first	12 identification and is attached to the transcript.)
13 three months of 2008, were you -- were the -- were	13 Q And I'll ask you if you can tell me what
14 your accounts with Mr. Haycox and his companies	14 this is?
15 ever brought current?	15 A It's listed as a withdrawal as attorney
16 A No.	16 and change of correspondence.
17 Q Did you ask that they be brought current?	17 Q And did you by this filing seek to
18 A Yes.	18 withdraw from representing Mr. Haycox's companies
19 Q Were you told that they would be brought	19 in front of the Patent and Trademark Office?
20 current?	20 A Yes.
21 A Yes.	21 Q If you recall, was there a pending office
22 Q And I take it that while -- despite being	22 action in connection with this particular filing?
23 told they would be brought current, they were	23 A I do not recall.
24 never brought current?	24 Q Why did you seek to withdraw as counsel
25 A Correct.	25 for Mr. Haycox's companies when you filed this

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8 (29 to 32)

29	31
1 request to withdraw?	1 person?
2 A We withdrew for nonpayment of services.	2 A No.
3 Q And if you recall, approximately how long	3 Q Have you ever talked to him on the
4 had Mr. Haycox and his companies been delinquent	4 telephone?
5 in bringing your accounts with Mr. Haycox's	5 A I do not recall.
6 companies current?	6 Q Had you ever e-mailed him?
7 A More than a year.	7 A I do not recall.
8 Q Before filing Exhibit 7, did you notify	8 Q Did you ever send him a letter?
9 any -- notify Mr. Haycox?	9 A I do not recall.
10 A I do not recall.	10 Q Had you ever received a letter or an
11 Q If you have such a practice, would your	11 e-mail or a text from Mr. Ambrose?
12 practice have been to inform the client that you	12 A I do not recall.
13 were going to withdraw from representing them at	13 Q If I use "communication" in the broadest
14 the Patent and Trademark Office?	14 sense, talking, texting, e-mailing, meeting, do
15 A Yes.	15 you recall ever communicating with Mr. Ambrose?
16 Q And would your practice have been to, if	16 A I do not recall.
17 they wanted to continue the prosecution, to retain	17 MR. HASLAM: Can we pull up Tab 11. Can
18 other counsel to continue with those efforts?	18 we mark this as Exhibit 8. And can we give the
19 A Yes.	19 witness control of this document.
20 Q Do you recall what Mr. Haycox's response	20 (Brooks Deposition Exhibit 8 marked for
21 was when you informed him that you were going to	21 identification and is attached to the transcript.)
22 file a request to withdraw from representing his	22 Q While we're on that first page there,
23 companies before the Patent and Trademark Office?	23 Brooks, Cameron & Huebsch, PLLC, was that the firm
24 MR. CONNEELY: That calls for a yes-or-no	24 you were practicing with at the time this document
25 answer, Mr. Brooks.	25 was received?
30	32
1 A No.	1 A Yes.
2 Q If you'll scroll down on this document,	2 Q This document indicates that your
3 Exhibit 7, I believe there is a place where you	3 withdrawal as attorney had been accepted, and was
4 indicate who could be notified. And I want to	4 mailed on June 9, 2008.
5 stop there.	5 Do you recall receiving this?
6 You -- you notify -- or you indicated	6 A I do not recall receiving it. This
7 that the person who could be notified in	7 document speaks for itself. It's dated June 9 of
8 connection with this was Christopher Ambrosia --	8 2008, but I don't recall work done in 2008.
9 and I'm not sure if that's a misspelling --	9 Q Okay. But do you recall that at some
10 Ambrose, of Ambrose Law Group.	10 point in time your request for withdraw was
11 Do you recall why you listed that person	11 granted?
12 as the person to whom future correspondence should	12 MR. CONNEELY: Can you say that again,
13 be directed?	13 Counsel? You kind of broke up.
14 A I imagine that I was directed to do so by	14 Q Do you recall that at some point in time
15 Gary Haycox.	15 after you had filed Exhibit 7, the request to
16 Q From the time you began working with	16 withdraw, that the patent office granted your
17 Mr. Haycox up until the time you filed Exhibit 7,	17 request to withdraw as counsel?
18 had you had any face-to-face or telephone or	18 A Yes.
19 e-mail or any other kind of communications with	19 Q After you -- sorry. Is somebody saying
20 Mr. Ambrose?	20 something? No.
21 A That's several different questions. I	21 After your request to withdraw was
22 can answer them separately.	22 granted, did you have any further communications
23 Q Let me break them up.	23 with Mr. Haycox concerning your patent prosecution
24 A I do --	24 activities on behalf of his companies?
25 Q Had you met Mr. Ambrose personally, in	25 A I do not recall.

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<p>33</p> <p>1 Q After your request to withdraw was</p> <p>2 granted, do you recall having any communications</p> <p>3 with Mr. Ambrose?</p> <p>4 A I do not recall.</p> <p>5 Q After your request to withdraw was</p> <p>6 granted, did you have any communications with</p> <p>7 anyone from Equitas Capital Management?</p> <p>8 A I don't recognize that name. I don't --</p> <p>9 I don't recall.</p> <p>10 Q Did you have any communications after you</p> <p>11 withdrew with anyone from Equitas Equipment</p> <p>12 Finance?</p> <p>13 A I don't recognize that name, no.</p> <p>14 Q After you withdrew as counsel for</p> <p>15 Mr. Haycox's company in connection with patent</p> <p>16 prosecution, did you have any communications with</p> <p>17 a Mr. Carl Schwedler, S-C-H-W-E-D-L-E-R?</p> <p>18 A I don't recall.</p> <p>19 Q If it would help potentially jog your</p> <p>20 memory, Mr. Schwedler was a patent attorney with</p> <p>21 Bullivant Houser Bailey, PC.</p> <p>22 With that piece of additional</p> <p>23 information, do you recall ever having had any</p> <p>24 communications with a Mr. Carl Schwedler after you</p> <p>25 withdrew?</p>	<p>35</p> <p>1 having any communications with a Mr. Adrian</p> <p>2 Chraplyvy?</p> <p>3 A No.</p> <p>4 Q After you withdrew as counsel for</p> <p>5 Mr. Haycox's company in connection with patent</p> <p>6 prosecution, did you have any communications with</p> <p>7 a Mr. Kai, K-A-I, Hansen?</p> <p>8 A I do not recall. I don't recognize that</p> <p>9 name.</p> <p>10 Q After you withdrew as counsel for patent</p> <p>11 prosecution matters for Mr. Haycox's company, did</p> <p>12 you have any communications with Mr. Chaffee, a</p> <p>13 Ron Chaffee?</p> <p>14 A I don't recognize that name either.</p> <p>15 Q And finally, after you withdrew as</p> <p>16 counsel for Mr. Haycox's companies with respect to</p> <p>17 patent prosecution, did you have any</p> <p>18 communications with Mr. Tom Sidley?</p> <p>19 A I don't recognize that name either.</p> <p>20 Q At some point after you withdrew as</p> <p>21 counsel for Mr. Haycox's company in connection</p> <p>22 with patent prosecution matters, did you become</p> <p>23 aware that any of the applications that you had</p> <p>24 been working on had gone abandoned?</p> <p>25 A I do not recall.</p>
<p>34</p> <p>1 A I do not recall.</p> <p>2 Q After you withdrew -- after your</p> <p>3 withdrawal was granted, did you have any</p> <p>4 communications with a Daniel P. Burke, B-U-R-K-E?</p> <p>5 A I do not recall any conversations or</p> <p>6 communications with that name.</p> <p>7 Q And just to the extent it might help,</p> <p>8 Mr. Burke was a patent attorney based in Oyster</p> <p>9 Bay, New York. With that additional information,</p> <p>10 do you recall ever having any communications with</p> <p>11 Mr. Burke?</p> <p>12 A No.</p> <p>13 Q Do you ever recall having had any</p> <p>14 communications after you withdrew as counsel for</p> <p>15 Mr. Haycox's company with anyone who indicated</p> <p>16 that they were affiliated with or worked for XR</p> <p>17 Communications?</p> <p>18 A I do not recall.</p> <p>19 Q Do you ever recall, after you withdrew as</p> <p>20 counsel for Mr. Haycox's company in connection</p> <p>21 with the patent prosecution, having any</p> <p>22 communications with a Mr. Adrian Chraplyvy?</p> <p>23 A I could not hear that question.</p> <p>24 Q After you -- after you withdrew as</p> <p>25 counsel for Mr. Haycox's companies, do you recall</p>	<p>36</p> <p>1 Q Do you recall after you withdrew as</p> <p>2 counsel ever being contacted by anyone asking you</p> <p>3 what, if anything, you knew about -- about why</p> <p>4 patent applications on which you had been</p> <p>5 prosecuting prior to your withdrawal had gone</p> <p>6 abandoned?</p> <p>7 A I'm sorry. Ask the question again,</p> <p>8 please?</p> <p>9 Q Okay. I want to focus on the time after</p> <p>10 you had withdrawn as counsel. And I'm asking if</p> <p>11 anybody ever contacted you after that point and</p> <p>12 asked you why any patent applications that you may</p> <p>13 have worked on relating to Mr. Haycox's companies</p> <p>14 had gone abandoned.</p> <p>15 A I do not recall anyone contacting me to</p> <p>16 ask me that question.</p> <p>17 Q If you had been asked that question,</p> <p>18 would your answer have been that you withdrew</p> <p>19 because you had not been paid?</p> <p>20 MR. CONNEELY: Object to the form. Lack</p> <p>21 of foundation. Counsel, you said that question.</p> <p>22 That wasn't the same question.</p> <p>23 MR. HASLAM: Well, I -- I asked a</p> <p>24 different question. I'm asking a different</p> <p>25 question.</p>

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10 (37 to 40)

37	39
1 Q If after you withdrew someone contacted	1 connection with this particular file?
2 you and asked you why did you withdraw from	2 A Yes.
3 prosecuting patent applications for Mr. Haycox's	3 Q And I have the document, but do you -- do
4 companies, would you have told them it was because	4 you recall that this request was likewise granted
5 you were not being paid?	5 by the patent office?
6 A I don't believe so. I would have said	6 A I do not recall.
7 it's not any of their business, that would be	7 Q Okay.
8 between the previous client and counsel as to why	8 A I believe at some point all withdrawal
9 we withdrew. I just think it would have been	9 requests would have been granted.
10 evident we withdrew.	10 Q Okay. And again, the page you're on now
11 Q And just to confirm, then, nobody asked	11 in Exhibit 9 indicates that the firm, the person
12 you that question that I just asked you after you	12 to direct future correspondence to, was
13 withdrew as counsel for Mr. Haycox's companies.	13 Christopher Ambrose at Ambrose Law Group.
14 Correct?	14 Again, that is a name you would have been
15 A I do not recall.	15 given by Mr. Haycox?
16 Q And again, when you say that, you don't	16 A I believe so.
17 recall one way or the other, or are you saying you	17 MR. HASLAM: Can we have Tab 15. And can
18 don't recall having had such a question posed to	18 we mark that as Exhibit 10, and give the witness
19 you?	19 control.
20 A I do not recall such a question posed to	20 (Brooks Deposition Exhibit 10 marked for
21 me.	21 identification and is attached to the transcript.)
22 Q Now, we saw in your billing records and	22 Q Is Exhibit 10 a correspondence from the
23 in the filings that -- some of the documents that	23 patent office granting your request to withdraw as
24 we've seen, that you were working for Vivato --	24 attorney or agent of record?
25 you were billing Vivato Networks, LLC.	25 A It appears to be so.
38	40
1 At any time do you recall working on	1 MR. HASLAM: Can we have Tab 16. And can
2 behalf of a company called Vivato Networks	2 we mark this as Exhibit 11.
3 Holdings, Inc.?	3 (Brooks Deposition Exhibit 11 marked for
4 A I do not recall.	4 identification and is attached to the transcript.)
5 Q To the best of your recollection, the	5 Q This appears to be a communication from
6 work that you were doing was for Mr. Haycox and	6 the patent office to your firm that was mailed
7 for a Vivato entity that he controlled?	7 in -- or is dated October 31st, 2008.
8 A Yes.	8 Do you recall this document?
9 MR. HASLAM: Could we have Tab 14 brought	9 A I do not.
10 up. And can we give the witness control. And	10 Q This purports to indicate that this is an
11 we'll mark this as Exhibit 9.	11 interview summary with yourself, Edward J. Brooks,
12 (Brooks Deposition Exhibit 9 marked for	12 III. Correct? That's your name?
13 identification and is attached to the transcript.)	13 A That is my name.
14 Q Again, while we're on the first page	14 Q And Christopher R. Ambrose. And it
15 there -- if you could scroll up just -- I'm sorry,	15 indicates that it was a telephonic interview. Can
16 I apologize. Could you just go up briefly.	16 you scroll down to the examiner's notes about what
17 Again, that -- that docket number that we see here	17 he recalls having been talked about. And I'll
18 is a docket number that would relate to your	18 read it into the record.
19 billing system?	19 The Examiner says, the summary of the
20 A Yes.	20 substance of the interview is, quote, On 9/26/08,
21 Q And this is for an application Serial	21 I telephoned Christopher R. Ambrose. Mr.
22 Number 10/700,342?	22 Christopher R. Ambrose said he rehired Mr. Edward
23 A That appears to be correct.	23 J. Brook to work on the application. On 9/30/08,
24 Q And if you want to scroll through this,	24 I telephoned Mr. Edward J. Brook. Mr. Edward J.
25 is this a request to withdraw as counsel in	25 Brook said he has not received message from

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